

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

ANTHONY DeFRANCO,
Plaintiff,

V.

WILLIAM WOLFE, et al.,
Defendants.

:
: No. C.A. 04-230-E
: Magistrate Judge Baxter
: District Judge Cohill
:
:
:

MOTION FOR THE APPOINTMENT OF COUNSEL

AND NOW, comes plaintiff, Anthony DeFranco, respectfully requesting this Honorable Court appoint counsel to represent him in the above captioned case, and in support avers:

1. Plaintiff is currently in the discovery stage of this lawsuit and following and understanding the rules of discovery are difficult for him to fully comprehend.

2. Further, the defendants' are making the process almost impossible; they are late in filing documents; object to almost every paper requested under the cloak of "security" which makes plaintiff's evidence weak(er).

3. The issues in the case are complex and need expert medical testimony.

4. The case was amended due to retaliation by the defendants' and this Court allowed the amendment after reviewing the facts outlined.

5. The defendants' have objected and/or redacted every inmate file that plaintiff has requested under bogus security claims. Indeed, the defendants make bold objections claiming security and it appears that the Court is inclined to accept whatever they claim. Counsel is required so all of these documents can be read and produced. Since providing them to plaintiff is being objected to then counsel should be appointed.

6. It is further averred that plaintiff suffers, *inter alia*, a delusional disorder as diagnosed by prison psychiatrists. See, *Hamilton v. Leavy*, 117 F.3d 742 (3rd Cir.1999), where the Court stated that because the inmate suffered from this mental illness, counsel should be appointed. Attached hereto is a certified copy of the psychiatrist's handwritten post-it note detailing plaintiff's prescription and diagnosis.

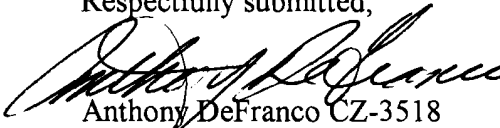
7. Under the most recent Third Circuit published Opinion, *Montgomery v. Pinchak*, 294 F.3d 492 (3rd Cir. 2002), a case on point, the Court stated that due to the legal issue and need of medical opinion and testimony, counsel should be appointed. Also, due to the discovery difficulties suffered by pro se litigant *Hamilton*, counsel should be appointed. Hamilton satisfied five (5) of the six (6) prongs stated in *Tarhon v. Grace*. As does the plaintiff in this case.

8. In the fair administration of justice, plaintiff asks that the Court appoint counsel to fairly represent his interests.

WHEREFORE, plaintiff prays this Honorable Court appoint counsel.

Date: May 16, 2006

Respectfully submitted,

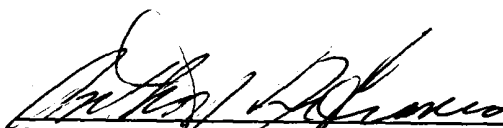

Anthony DeFranco CZ-3518
10745 Route 18
Albion, Pa. 16475-0002

Service of the foregoing
was served upon the defendants'
by US Mail this date.

Trifluor. 4mg 2x/d
Valium 10mg 2x/d
Delusional x/o
(
LONGSTREET

VERIFICATION

I, Anthony DeFranco, verify under penalty of perjury, that this is a true and correct copy of the hand-written note written & signed by Dr. Longstreet, prison psychiatrist, on May 8, 2006, describing plaintiff's prescription and diagnoses of delusional disorder.


Anthony DeFranco

ATTACHMENT 1